IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

68-0157 (9-06) - 3091078 - EI

MICHAEL R VANKLOMPENBURG
Claimant

STREAM INTERNATIONAL INC
Employer

APPEAL NO: 14A-UI-08937-ET

ADMINISTRATIVE LAW JUDGE DECISION

OC: 07/20/14
Claimant: Respondent (1)

Section 96 5-1 – Voluntary Leaving – Layoff
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 19, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 19, 2014. The claimant participated in the hearing. Bangone Chantavong, Human Resources Generalist, and Judith Easton, Senior Recruiter, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer support professional for Stream International from November 13, 2006 to July 1, 2014. He was laid off after the account he was working on closed that portion of its business with the employer.

The claimant worked in Microsoft Accounts and Billing. He worked from 7:00 a.m. to 4:00 p.m. Monday through Friday. Employees were notified May 21, 2014 that line was closing effective July 20, 2014.

In mid-June 2014 the employer learned it would be able to keep at least 48 of the 120 affected employees because Microsoft expanded its Xbox account. Later it discovered it had enough work for all the laid off employees. Employees who applied and were placed on that account would have to be available to work a shift between 8:00 a.m. and midnight, Monday through Sunday, as their shift was assigned by the employer, after participating in a five-week training course that ran from 7:00 a.m. to 3:30 p.m. or 3:30 p.m. to midnight.

The end of employment date for the employees varied. The claimant's last day was scheduled to be July 20, 2014 but the employer notified the claimant his last day would actually be July 1, 2014. It later informed employees of the additional job openings but it could not guarantee which shift the employee would work. The claimant did not want to work nights or weekends after working weekdays with weekends off during his tenure with the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

Iowa Code § 96.5-1 provides:

> An individual shall be disqualified for benefits:
>
> 1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The account the claimant was working on closed July 8, 2014 and the claimant was laid off July 1, 2014. While the employer did secure additional work for the laid off employees, it could not tell the affected day-shift employees what shift they would be working, after they completed five weeks of training on the new accounts, but did state they had to be available from 7:00 a.m. to midnight, Monday through Sunday. Because the affected employees worked day shift, and the employer could not tell the employees what hours they would be working, the potential offers of work are not considered “bona-fide offers” of suitable work. The employer could not offer the employees a specific position if it could not tell them what hours they would be working. The separations were due to a lack of work by the employer and there was no bona fide offer of work to the claimant or other employees because the employer could not tell the employees what shifts they would be assigned to following training.

DECISION:

The August 19, 2014, reference 01, decision is affirmed. The claimant was laid off due to a lack of work. There was not a suitable offer of work made following the layoff. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder
Administrative Law Judge

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Decision Dated and Mailed

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